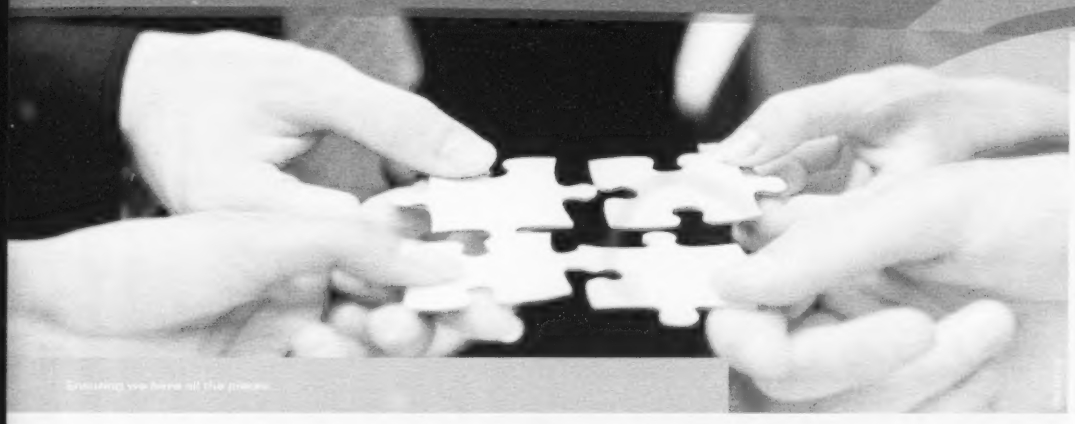
In all fairness

2012 Annual Report of the Yukon Ombudsman



Ensuring we have all the pieces.

Case Summaries These stories are good examples of how our office helps Yukoners and the Yukon government solve problems and improve service. Names have been changed for confidentiality.

2012 Ombudsman Annual Report to the Legislative Assembly

A steep learning curve

I was honoured to have been appointed by the Yukon Legislative Assembly as Ombudsman and Information and Privacy Commissioner (IPC) effective May 1, 2012 following a five-year term served by Tracy-Anne McPhee.

I soon came to appreciate the scope and particulars of the work ahead of me as Ombudsman and IPC. It did not take me long to conclude that the work falling to the Ombudsman/IPC cannot be handled by the current half-time position. My two predecessors in the position had also reached that conclusion and had made submissions to the Members' Services Board to have the position increased to full time. No action had been taken on these and other requests for changes to the *Ombudsman Act* to meet operational and jurisdictional improvements for employment of the Office's staff.

No comprehensive review has been made of the Ombudsman/IPC Office since it was established 16 years ago. Its processes, practices and systems have evolved without specific attention to how the volume and nature of files have changed over the years. Two notable absences were performance targets for file completions and client satisfaction information. The limited resources of the Office have clearly been focused on processing and closing files.

After a thorough discussion with staff in the Office, I made a decision to have an organizational and operational review of the Office made (see sidebar article).

A legislative change

In April 2012 the Yukon Legislative Assembly repealed section 35 of the *Ombudsman Act*, known as the "sunset clause." This provision had limited the existence of the Act and the Office of the Ombudsman to five years unless the Legislative Assembly determined that it be continued for a further period not exceeding five years. The section 35 repeal was a recognition of the value of the Office of the Ombudsman to administration of government in the Yukon.

It's all about fairness

The *Ombudsman Act* provides the statutory framework for the Ombudsman to ensure accountability and fairness in public government in the Yukon. The Ombudsman's jurisdiction extends to investigation of complaints over actions taken or not taken, decisions, recommendations or procedures of Yukon government departments, corporations and agencies, public schools and Yukon College, hospitals and professional or occupational associations established by an Act (referred to as authorities).

The Ombudsman is independent of government and is accountable to the Yukon Legislative Assembly through the Members' Services Board and the Speaker. The Ombudsman's role is not adversarial in nature; it is not intended to lead to "finger pointing" or assignment of blame when investigating complaints but rather to providing an independent constructive review, resulting in an improvement to delivery of government services.

Complaints range from relatively minor single-issue matters to complex multi-issue matters. Upon receipt, complaints are assessed with respect to Ombudsman jurisdiction. Complainants are referred to the appropriate authority for further action, if such is possible. Where a complaint is within jurisdiction, the investigator will make preliminary inquiries with a view to finding an early resolution.

For complaints that cannot be resolved quickly or that are more complex, a formal investigation is undertaken. The investigation may conclude that the authority acted fairly. Where the investigation finds that the authority did not act fairly, the Ombudsman will issue a report to the authority with a recommendation to remedy the unfairness. The authority is required to notify the Ombudsman whether or not it has accepted the recommendation.

The Ombudsman Office relies on effective working relationships with Deputy Ministers and senior departmental officials in order to resolve complaints in a timely manner and to implement changes or improvements where they are recommended. Their cooperation is acknowledged and appreciated.

Effective communication is essential

Communication problems are a component of most complaints. Sometimes authorities do not provide clear and complete reasons and explanations for decisions they have made. In some cases the complainants have not explained their concerns in a clear manner or a personality conflict develops preventing principled discussion. We continually encourage authorities to have in place a documented process for handling complaints from the public about the services that they provide.

I look forward to working with the talented and dedicated staff of the Office of the Ombudsman/IPC in the coming year to address the recommendations from the Review nearing completion and to deliver high quality and timely results on complaints received.

17th Annual Report

As required by the *Ombudsman Act*, I am submitting this 17th Annual Report of the Ombudsman to the Honourable David Laxton, Speaker of the Yukon Legislative Assembly, who will in turn present it to that body.

Tim Koepke

Ombudsman
Information and Privacy Commissioner

Organizational and operational review

After a full discussion with staff and concurrence on the need for a comprehensive review of the Office's operations, I met with the Speaker and sought his support to conduct an external organizational and operational review of the Office. This review would provide an assessment of the current state and develop a roadmap for changes where required. The overall goals were to make the Office more operationally efficient, provide an improved client focus and adjust staff functions to meet the mandates under both Acts. A *Request for Proposals* was issued and a contract awarded to Imaginate Inc. to undertake the required work.

Part of the consultant's work was a questionnaire mailed to past clients of the Ombudsman and IPC Office with a request to answer eight questions rating various aspects of their experience in dealing with the Office. The questionnaires were to be completed and returned anonymously and directly to the consultant. The consultant's work included extensive personal interviews with the Ombudsman and staff, the Speaker, Deputy Ministers, representatives of Yukon government departments and former Ombudsman/IPCs. It also included a comparative review of Ombudsman and IPC offices in other Canadian jurisdictions. The consultant will review the current file management system to see if new technology can be applied to reduce the paper burden, improve file management and provide better communications with clients and government authorities.

I expect to receive the Report around the end of January 2013 and will immediately present it to the Speaker and Members' Services Board for review, seeking support for its recommendations and devising a timely implementation plan. ■

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Often, administering fair solutions comes down to correcting errors, making adjustments, and recalculating one's position.

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It was a one-time occurrence

Adult Services
Health and Social Services

Peter is disabled and can only work part-time. He depends on social assistance to supplement his monthly part-time earnings.

Peter was concerned when the amount of social assistance he received in July was significantly less than he received in previous months, while his circumstances hadn't changed. Peter believed HSS had made a mistake in calculating his benefits.

Individuals who are working can receive social assistance benefits if they are unable to earn enough to cover their basic needs. Under the *Social Assistance Act* and Regulations there are allowable income exceptions. Any income earned beyond those exceptions is deducted from an individual's social assistance benefits.

We reviewed the legislation, the facts of Peter's case and the calculations made by HSS. We concluded that HSS's calculations were correct. However, we also learned that for several months prior to July, HSS had been applying the wrong formula in making the calculation which resulted in Peter receiving more social assistance than he was actually entitled to. When HSS corrected this mistake in July, it reduced the amount Peter was eligible for that month. This explained why he had received less assistance than in previous months. We advised Peter that we were satisfied that HSS's calculations were correct in his case. We also explained that the mistake did not set a precedent that HSS must follow in later months. ■

Correcting an error, fixing a process

Maintenance Enforcement Program
Justice

Paul contacted our office after MEP issued a garnishing order to collect one month arrears of his child support payments.

He maintained he had made his support payment and told us he had provided MEP with information that would have allowed them to confirm this the previous month. He was frustrated and didn't understand why MEP continued to insist he was in arrears of his payments and was taking enforcement action against him.

We met with the Director and reviewed MEP's file. We confirmed that Paul had contacted their office when he received a letter indicating he was in arrears. Paul explained he had been living in Alberta and the maintenance order was registered in the Alberta MEP office. He had given the Alberta MEP six months of post-dated cheques for maintenance and they had in fact cashed the cheque for the month in question. MEP had not contacted Alberta MEP to confirm the payment before issuing the garnishing order. We discussed possible improvements to the process to ensure the accuracy of information in MEP's file before they took any enforcement action. The Director contacted Paul to apologize for the error and informed him of the changes made to the process as a result of his complaint. We were satisfied this settled the matter. ■

Reasonable steps were taken

Yukon Housing Corporation

Joe lived in a housing unit owned by the Yukon Housing Corporation.

Before he had moved in, the unit underwent scheduled repairs and some upgrading as part of YHC's ongoing maintenance program. Joe felt some of the repairs were shoddily done and needed re-doing while other repairs and upgrades YHC had promised, hadn't been done. To make matters worse, Joe became sick shortly after moving in and believed it was related to the unit's air quality. YHC was aware of Joe's concerns and took some steps to address them. But YHC refused to do more, saying it had done all repairs and upgrades scheduled for the unit and taken all reasonable steps to identify and correct what could be affecting the air quality. YHC offered him another unit but Joe didn't want to move. He contacted our office.

With both Joe and YHC, we went to see the unit for ourselves. We reviewed YHC's maintenance plan for the unit, including its schedule for maintenance and upgrades generally and the specific repairs and upgrades in Joe's unit. We compared the work done in the unit against the guidelines established by YHC for repair or replacement of items in a unit. We also considered the steps YHC had taken to explore possible air quality issues.

We were satisfied that YHC had carried out all of the repairs and upgrades scheduled for the unit and fixed some of the repairs that were poorly done in the first place. We also confirmed that YHC had undertaken the work recommended by an independent contractor it hired to provide advice on the air quality issues. When this didn't resolve Joe's health issues, YHC took other measures specifically requested by Joe in an attempt to address what might be causing him to be sick. While none of this alleviated Joe's health issues, we agreed that YHC had taken reasonable steps to identify and try to correct what might be causing his problem. We were pleased when Joe accepted YHC's offer to move to another unit. ■

What proves residency?

Insured Health and Hearing Services
Health and Social Services

Don, a seasonal worker in Yukon, was applying for Yukon Health Care Insurance coverage.

To obtain coverage individuals must establish that their primary residence is in the Yukon. Don complained about a lack of information and communication from Insured Health and Hearing Services about what was required to prove he was a Yukon resident.

We contacted IHHS and discussed his concern. IHHS acknowledged its need to ensure an individual has sufficient information to know how IHHS decides eligibility. They agreed to develop a handout for applicants and post a sign in their office describing what was required to establish residency in order to be eligible for health care coverage in the Yukon. ■

Our team, from left to right: Catherine Buckler Lyon, Tim Koepke, Colleen Gille, Randy Reid and Susan Dennehy.

Increasing our capacity

The addition of a third Investigator/Mediator position had been approved and budgeted for earlier in the year. After a successful competition, Randy Reid joined our team in September, 2012. As a former member of the RCMP, Randy brings with him sound investigative skills, complementing the work of Catherine Buckler Lyon, Senior Investigator/Mediator and Susan Dennehy, Investigator/Mediator/Legal Counsel as well as our Executive Assistant/Administrator, Colleen Gille.

Statistics

It is always difficult to report complex work with simple numbers. No two contacts to the Office of the Ombudsman are the same. Referrals are sometimes made where there is an existing avenue for dealing with a complaint while other matters may be resolved by making inquiries of the authority. Other matters are more complex and may require analysis and/or investigation.

2012	
Jurisdictional contacts 2012	132
Non-jurisdictional contacts 2012	44
Total new contacts	**176**
Jurisdictional matters resolved/referred	67
Files opened for analysis/investigation	45
Carried forward from 2011	38
Total analysis/investigation files 2012	**83**
Jurisdictional/investigation files closed 2012	47
To be carried forward to 2013	36

Budget summary

This budget summary covers the operations of the Ombudsman and IPC Office for the period April 1, 2012 to March 31, 2013. Funding pressures in that period required a $96,000 increase to the budget to cover accrued benefits and a transition employment contract for the outgoing Ombudsman/IPC, part of the contract for the Organizational and Operational Review and a revote to carry over funding for a capital purchase item from the previous year.

Category	Main	Revised	
Personnel	$497,000	$547,000	($50,000 increase)
Office and Operations	$162,000	$207,000	($45,000 increase)
Supplies and Services	$7,000	$7,000	
Capital Items	$6,000	$7,000	($1,000 revote)
TOTAL	$672,000	$768,000	($96,000)